

meningitis, pneumonia, typhus, typhoid fever, Lyme disease, cholera, leprosy, influenza, varicella, rabies, dengue, toxoplasmosis, coccidiomycosis, schistosomiasis, and malaria, or

31 (b) an immunogen selected from the group consisting of BCG, *Hemophilus influenza*, hepatitis B virus, polio virus, *Streptococcus*, *Staphylococcus*, *Neisseria*, *Escherichia coli*, *Shigella*, *Leishmania*, cytomegalovirus (CMV), respiratory syncytial virus, Epstein-Barr virus, herpes virus, parainfluenza virus, rotavirus, adenovirus, human immunodeficiency virus (HIV), hepatitis A virus, and NonA/NonB hepatitis virus immunogens.

---

**REMARKS**

We previously filed an amendment after final rejection on February 21, 2002, which was denied entry on June 4, 2002.

In response to the advisory action, we are filing three substitute amendments, of which this is one. The advisory action did not complain about any of the amendments made by this substitute amendment.

1. The cancellation of claim 19 moots the prior art rejection as to that claim, see OA page 13.

2. Claims 153-258 and 260-265 have been cancelled as drawn to unelected invention(s). Note that claims 156, 157 and 160 were intended to depend from 153.

3. Claims 149-152 have been rejected because one Markush group was nested within another. There is no legal basis for objecting to recitation of a markush group as a member of another markush group. If the Examiner is aware of such authority, he should cite it. We are aware of many patents with nested markush groups.

However, in claims 149-152, we have now "or-ed" (a) and (b), instead of using Markush language. See MPEP §2173.05(II). This does not affect claim scope.

4. As requested by the Examiner, we corrected the spelling

USSN - 08/591,651

of typhus" in claim 152.

5. The Examiner has questioned the recitation of "flavivirus" in claims 149-152. To narrow the issues for appeal, we have excised it.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "Version with markings to show changes made".

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant

By: 

Iver P. Cooper  
Reg. No. 28,005

624 Ninth Street, N.W.  
Washington, D.C. 20001  
Telephone: (202) 628-5197  
Facsimile: (202) 737-3528  
IPC:lms

G:\BN\C\clas\classenla\clasla.substamend A afterfinal.wpd

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

In the claims:

Claims 149-152 have been amended as follows:

149 (amended). The kit of claim 68 in which said nonpediatric immunogen is [selected from the group consisting of]

(a) an immunogen of an organism which causes a disease selected from the group consisting of anthrax, plague, encephalitis, meningitis, typhus, typhoid fever, Lyme disease, cholera, leprosy, varicella, dengue, influenza, herpes, rabies, toxoplasmosis, coccidiomycosis, schistosomiasis and malaria, [and] or

(b) an immunogen selected from the group consisting of *Streptococcus*, *Staphylococcus*, *Neisseria*, *Escherichia coli*, *Shigella*, *Leishmania*, cytomegalovirus (CMV), respiratory syncytial virus, Epstein-Barr virus, herpes virus, parainfluenza virus, rotavirus, adenovirus, human immunodeficiency virus (HIV), hepatitis A virus, and NonA NonB hepatitis virus[, and flavivirus] immunogens.

150 (amended). The kit of claim 74 in which said nonpediatric immunogen is [selected from the group consisting of]

(a) an immunogen of an organism which causes a disease selected from the group consisting of anthrax, plague, encephalitis, meningitis, typhus, typhoid fever, Lyme disease, cholera, leprosy, varicella, dengue, influenza, herpes, rabies, toxoplasmosis, coccidiomycosis, schistosomiasis and malaria, [and] or

(b) an immunogen selected from the group consisting of *Streptococcus*, *Staphylococcus*, *Neisseria*, *Escherichia coli*, *Shigella*, *Leishmania*, cytomegalovirus (CMV), respiratory syncytial virus, Epstein-Barr virus, herpes virus, parainfluenza virus, rotavirus, adenovirus, human immunodeficiency virus (HIV), hepatitis A virus, and NonA NonB hepatitis virus[, and flavivirus] immunogens.

151 (amended). The kit of claim 43 in which at least one immunogen is [selected from the group consisting of]

(a) an immunogen of an organism which causes a disease selected from the group consisting of measles, mumps, rubella, diphtheria, pertussis, tetanus, anthrax, plague, encephalitis, meningitis, pneumonia, typhus, typhoid fever, Lyme disease, cholera, leprosy, influenza, varicella, rabies, dengue, toxoplasmosis, coccidiomycosis, schistosomiasis, and malaria, [and] or

(b) an immunogen selected from the group consisting of BCG, *Hemophilus influenza*, hepatitis B virus, polio virus, *Streptococcus*, *Staphylococcus*, *Neisseria*, *Escherichia coli*, *Shigella*, *Leishmania*, cytomegalovirus (CMV), respiratory syncytial virus, Epstein-Barr virus, herpes virus, parainfluenza virus, rotavirus, adenovirus, human immunodeficiency virus (HIV), hepatitis A virus, and NonA/NonB hepatitis virus[, and flavivirus] immunogens.

152 (amended). The kit of claim 16 in which at least one immunogen is [selected from the group consisting of]

(a) an immunogen of an organism which causes a disease selected from the group consisting of measles, mumps, rubella, diphtheria, pertussis, tetanus, anthrax, plague, encephalitis, meningitis, pneumonia, [typhu] typhus, typhoid fever, Lyme disease, cholera, leprosy, influenza, varicella, rabies, dengue, toxoplasmosis, coccidiomycosis, schistosomiasis, and malaria, [and] or

(b) an immunogen selected from the group consisting of BCG, *Hemophilus influenza*, hepatitis B virus, polio virus, *Streptococcus*, *Staphylococcus*, *Neisseria*, *Escherichia coli*, *Shigella*, *Leishmania*, cytomegalovirus (CMV), respiratory syncytial virus, Epstein-Barr virus, herpes virus, parainfluenza virus, rotavirus, adenovirus, human immunodeficiency virus (HIV), hepatitis A virus, and NonA/NonB hepatitis virus[, and

USSN - 08/591,651

flavivirus] immunogens.

---